



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Sentrix Pharmacy and Discount, L.L.C.

**Respondent Name**

American Zurich Insurance Company

**MFDR Tracking Number**

M4-17-2719-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

May 15, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "28 TAC §134.530 clearly states that preauthorization is only required for any compound that contains a drug identified with a status of 'N' in the current edition of the ODG Workers' Compensation Drug Formulary. In the case of the claim(s) at issue, all of the ingredients are identified with a 'Y' in the June 2016 ingredients in the compounded medications subject to the claims at issue are included on the closed formulary."

**Amount in Dispute:** \$1,244.50

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "It is uncontested that Requestor failed to request preauthorization, and failed to obtain preauthorization from the Respondent or an order from the commissioner."

**Response Submitted by:** Flahive, Ogden & Latson

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 17, 2016	Pharmacy Services – Compound	\$1,244.50	\$834.31

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.

5. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 197 – Precertification/authorization/notification absent.

### Issues

1. Did American Zurich Insurance Company (Zurich) raise the issue of medical necessity in accordance 28 Texas Administrative Code §133.307?
2. Is the Zurich's reason for denial of payment supported?
3. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement of the disputed services?

### Findings

1. In its position statement, Flahive, Ogden & Latson stated on behalf of Zurich, "The Requestor failed to document the appropriateness and medical necessity for the compound cream prescribed. Because there is an unresolved issue of medical necessity, this Request should be DISMISSED in accordance with 28 TAC §133.307(f)(3)(B)."

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation does not support that a denial for medical necessity was presented to Memorial on an explanation of benefits as required by 28 Texas Administrative Code §133.240, prior to the date the request for medical fee dispute resolution (MFDR) was filed with the division. Therefore, this denial reason is considered a new issue and will not be considered in this review.

2. Sentrix is seeking reimbursement of \$1,244.50 for a compound dispensed on June 17, 2016. American Zurich Insurance Company (Zurich) denied the disputed service with claim adjustment reason code 197 – "PERCERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT." 28 Texas Administrative Code §134.530(b)(1) states that preauthorization is **only** required for:
  - (A) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
  - (B) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
  - (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Provision §134.530(b)(1)(A) preauthorization requirement is not discussed in this dispute because it was not asserted by either party and is not applicable to the compound in question.

While not asserted by Zurich, Sentrix was not required to seek preauthorization pursuant to §134.530(b)(1)(B) because none of the compounded ingredients have a status of "N" in the current edition of the ODG/Appendix A.

Flahive, Ogden & Latson, on behalf of Zurich, argued that "for topical application, this compound is considered *investigational* under the ODG."

The determination of a service's investigational or experimental nature is not subject to the *Official Disability Guidelines* (ODG). Instead, it is determined on a case by case basis as a utilization review pursuant to Texas Insurance Code §4201.002. Further, Texas Insurance Code §4201.002(13) states that utilization review, in relevant part, "includes a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services."

The division found **no evidence** that Zurich engaged in a prospective or retrospective utilization review (UR) as required by Texas Insurance Code §4201.002 in order to establish that the following compound is investigational or experimental in nature:

Compound Cream in Dispute	
Ingredient	Amount
Salt Stable LS Base	85.2 gm
Baclofen 4%	4.8 gm
Amantadine 8%	9.6 gm
Amitriptyline 2%	2.4 gm
Gabapentin 5%	6.0 gm
Ketoprofen 10%	12.0 gm

Because Zurich failed to perform UR on the above listed compound, the requirement for preauthorization under §134.530(b)(1)(C) **is not triggered** in this case. Zurich's preauthorization denial is therefore not supported.

Absent any evidence that Zurich presented other defenses to Sentrix before medical fee dispute resolution that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that the compounds in question are eligible for reimbursement.

3. Sentrix is seeking reimbursement of \$1,244.50 for a compound with the following ingredients:

- Salt Stable LS Base, NDC 00395602157, \$286.24
- Baclofen 4%, NDC 38779038808, \$170.99
- Amantadine 8%, NDC 38779011109, \$232.60
- Amitriptyline 2%, NDC 58597800308, \$45.92
- Gabapentin 5%, NDC 58597801407, \$377.08
- Ketoprofen 10%, NDC 58597801707, \$131.67

The division finds that NDC 38779011109 is not a valid National Drug Code (NDC) for Amantadine as required by 28 Texas Administrative Code §134.502(d)(1). Therefore, this ingredient will not be considered for reimbursement.

While NDC 58597800308 was requested for Amitriptyline in the medical fee dispute, the division finds that NDC 5897800308 was billed. This is not a valid National Drug Code (NDC) as required by 28 Texas Administrative Code §134.502(d)(1). Therefore, the billed code is not valid for the ingredient in question. No reimbursement can be recommended for this ingredient.

While NDC 58597801707 was requested for Ketoprofen in the medical fee dispute, the division finds that NDC 5897801707 was billed. This is not a valid National Drug Code (NDC) as required by 28 Texas Administrative Code §134.502(d)(1). Therefore, the billed code is not valid for the ingredient in question. No reimbursement can be recommended for this ingredient.

28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
  - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
    - (A) Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;
    - (B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  dispensing fee per prescription = reimbursement amount;
    - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or

(2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:

(A) health care provider; or

(B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compounds in dispute were billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Reimbursement is calculated as follows:

Ingredient	NDC & Type	Price/Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602157 Brand Name	\$3.36	85.2 gm	\$312.04	\$286.24	\$286.24
Baclofen 4%	38779038808 Generic	\$35.63	4.8 gm	\$213.78	\$170.99	\$170.99
Amantadine 8%	38779011109 Not valid	\$0.00	9.6 gm	\$0.00	\$232.60	\$0.00
Amitriptyline 2%	5897800308 Not valid	\$0.00	2.4 gm	\$0.00	\$45.92	\$0.00
Gabapentin 5%	58597801407 Generic	\$62.84	6.0 gm	\$471.30	\$377.08	\$377.08
Ketoprofen 10%	5897801707 Not valid	\$0.00	12.0 gm	\$0.00	\$131.67	\$0.00
NA	NA	NA	NA	\$15.00 fee	\$0.00	\$0.00
					Total	\$834.31

The total allowable reimbursement for the compound in dispute is \$834.31. This amount is recommended.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$834.31.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$834.31, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### **Authorized Signature**

_____ Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	December 1, 2017 Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**